

RIGHT TO BEAR ARMS.

IT SHALL NOT BE INFRINGED, SAYS THE CONSTITUTION.

Some Interviews as to the Power of States and Municipalities to Make Restricting Laws and Ordinances—The Question a Pertinent One at This Time.

(Special Correspondence.)

NEW YORK, May 5.—There is probably no state in the Union in which there is not a law against the carrying of certain weapons, and against carrying any concealed weapon. Even in Texas, which the world at large feels called upon to regard as the paradise of pistol shooters, there is such a law, and it is enforced to a certain extent. That is, a stranger who should be found carrying a revolver in his pocket would probably have to pay a fine, though a very large proportion of the citizens of the state undoubtedly carry them and are not punished.

In Memphis, some eight or nine years ago, a sort of epidemic of shooting affrays led to the passage of a local ordinance by virtue of which persons who were found carrying pistols were imprisoned and not fined. The mayor of a neighboring city, who went armed while traveling, was accordingly sentenced to sixty days in jail, and no influence which he could bring to bear was sufficient to save him from going there, though I believe he was, in fact, pardoned before he had been there very long.

It may be said in a general way that the laws and ordinances in the different parts of the United States are very similar, and it is therefore enough to quote those of New York. Here there are a state law and a corporation ordinance on the subject. The state law prohibiting the carrying of pistols has been repealed, but section 410 of the penal code declares that any person who carries, conceals, or possesses a dagger, a dirk, or a dangerous knife with intent to use it against the person of another shall be guilty of felony, and the following section declares that the possession of such a weapon shall be deemed presumptive evidence of intent to use it. The offense being a felony, it is, of course, punished severely, the penalty being a fine not exceeding \$1,000, or imprisonment for not more than seven years, or both.

The carrying of a pistol is a less serious offense, but according to the corporation ordinance it is a misdemeanor for any person, excepting judges of the federal and state courts and officers of the state and city, to carry a pistol of any kind "concealed on his person and not carried openly." Provision is made for the issuance of a permit enabling a citizen to carry a pistol lawfully, but in default of such permit a penalty of ten dollars fine or ten days imprisonment is prescribed.

Just now, probably because of certain notable crimes committed by foreigners, there has been a loud call for the strict enforcement of such laws. The New York Sun the other day quoted an Italian, who had been arrested and found to have a pistol in his pocket, as saying that the habit of carrying weapons is universal among Italians in this country, and expressed his belief that the statement is not far from true. It then referred to the state law making a felony of the carrying of certain specified weapons with intent to use them, and said, "It is evident that such laws are not turned without the intent to use them," and called on the police to arrest everybody who may be suspected of carrying them. This is in effect a demand that every Italian shall be arrested.

Now, the constitution of the United States, in the second amendment, says: "A well regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed."

To the lay mind there is an apparent conflict between this provision and the state laws mentioned, and I have consulted various authorities on the subject.

Ex-Governor Hoadly, of Ohio, who is now practicing law in New York, said that, without taking time to examine the question thoroughly, he was inclined to think that there was no conflict between the constitutional provision quoted and the various laws mentioned. "It has been held," he said, "that the constitutional provisions apply to federal legislation and to the police power of congress in the District of Columbia, and so forth. They do not apply as restricting the power of states or municipalities to pass their own laws."

"But by that you do not mean," said I, "that a state can infringe any right of the citizen which is guaranteed by the constitution of the United States?"

"Of course not," he said hastily. "But this right to keep and bear arms, which is not to be infringed, does not mean a right to carry concealed weapons. It means, rather, the use of weapons of warfare."

"Then a citizen may carry a revolver in a belt, but not in his pocket?"

"Well, you may reduce it to that, I suppose, but remember I am not giving you a carefully prepared opinion—only an off-hand one."

Governor Abbott, of New Jersey, seemed to be by no means so sure of the constitutionality of the laws in question, though as an executor, charged with the duty of enforcing them, he would not criticize them. He refused rather brusquely to express any opinion whatever. Ex-President Cleveland refused even to be seen for an interview on the subject.

Mr. Hummel, of the firm of Howe & Hummel, is generally conceded to be the leading lawyer in "criminal practice," so called, at the New York bar. At all events, he is reputed to understand the criminal code as well as, if not better than any of his rivals. He said:

"I have given a great deal of study to the provisions of the penal code and the municipal ordinances restricting the carrying of deadly weapons, and I have no hesitation in saying that in so far as they relate to the carrying of weapons used in civilized warfare they contravene the second amendment to the constitution of the United States. I have repeatedly advised my clients to that effect when they have asked for my opinion touching their rights."

"That second amendment must have been a stumbling block in the way of the lawmakers who framed the provisions of the penal code of the state, for in the enumeration of weapons the possession or carriage of which is declared a felony, firearms and other weapons recognized as warlike are omitted, and only those are mentioned which are universally regarded as the tools of robbers and assassins. Dirks, stilettos, sword canes, brass knuckles, slung shots, billies, loaded sticks and sandbags are placed under the ban, and possession of them on the person is made a felony, as it should be. I do not question that the prohibition of weapons of that character is clearly within the powers of state lawmakers. What is known as the general police power amply warrants such legislation."

"It is entirely different, however, with the carrying and carrying of pistols and

larger firearms, and such cutting weapons as are used in the chase or in war. Here in New York such weapons are forbidden only by ordinance of the municipality, under penalty of ten dollars fine or ten days imprisonment. If a person who was subjected to such penalty should take the trouble to appeal, there is no doubt in my mind that the higher courts would declare such laws or ordinances unconstitutional."

"The ordinance of this city gives the police authorities the power to grant permits to carry pistols to persons whom they deem fit to be entrusted with that privilege, and I have advised those clients who have consulted me on the question that it would be easier on the whole, and would probably save trouble, to obtain the required permit, and I have further advised them that if the superintendent of police should for any reason refuse such a permit, they should exercise their own discretion, with the full assurance that they could successfully contest the right of the police courts to enforce the prohibiting ordinance."

"Under this ordinance, moreover, the only persons who are actually impeded are those who desire to give full respect and obedience to the laws. Habitual law breakers, as is perfectly well known, do not give a moment's thought to prohibiting statutes or ordinances, and when they are arrested it is usually for some offense of sufficient importance to efface the consideration of the minor misdoing."

Inspector Alexander S. Williams, who was famous as a police officer long before he was inspector, is known as one of the best lawyers on the police force of this city. I asked him once, some time ago, if he believed that the laws against carrying concealed weapons were constitutional, and he said he did not think they were. "I do all I can toward enforcing the laws on this subject, because it is my duty to do, and moreover, I consider them good laws, but I believe if any man who should be punished for carrying a pistol should appeal and should carry his case to the supreme court of the United States, such a law would be declared in that court unconstitutional."

Chief Inspector Byrnes, now acting superintendent of the police, refused to give any opinion on the constitutionality of the laws mentioned, but spoke freely enough about the laws themselves. He was inclined to believe that it was illegal to carry a revolver in the city of New York, but a policeman might carry a revolver openly in a belt, but the statutes do not seem to support his opinion in this particular.

"Do you think the laws against carrying concealed weapons are conducive to the safety of the law-abiding citizens in their actual operations?" I asked him.

"No, I do not," he said frankly. "There is many a good citizen who would like to carry a pistol, but who will not do it without a permit, because of the law, and who is not ashamed, perhaps, but reluctant to put himself in the position of asking for a permit. But dangerous persons always go armed. Some of them, perhaps, have permits, but whether they have or not makes no difference to them. Of course if it were practicable to enforce the laws thoroughly it would be different, but it doesn't seem to be."

Robert Pinkerton, the well known private detective, was asked for his opinion of the law, but was very evasive in his replies. "As to the constitutionality of the laws," he said, "I'd rather not speak, because I am not a constitutional lawyer. And if I should be arrested for carrying a pistol, I would pay my fine rather than appeal the case. Of course my men go armed a great deal of the time, but we try to keep them from it as much as possible by giving them instructions not to carry weapons excepting when they are going on some business that is likely to be dangerous."

"As a rule," he continued, "I think that the magistrates, at least in this part of the country, are inclined to be very reasonable in their enforcement of these laws. For instance, I think if a reputable man had reasonable cause to suppose that he might need a weapon for self defense, and should be arrested for carrying it, the magistrate would probably discharge him after warning him of the law. It is not so in some parts of the country, however. There are places where the law against carrying weapons is regularly used as a means to blackmail strangers. Residents are never arrested for it, but if a stranger comes, the porter who blackens his shoes at the hotel, the brush boy at the barber's, and everybody else who comes in close contact with him, seems to be acting as a spy. He denounces the stranger, who is fined, and he gets one-half the fine for informing."

"One practical result of these laws is to keep law-abiding citizens from carrying weapons, and so place them at a disadvantage in case they do happen to come in contact with criminals, for, of course, the criminals pay no attention to such laws, and good citizens are likely to be sure," added Mr. Pinkerton, with a smile, "it is perhaps a good thing to keep law-abiding men from carrying pistols, for very few of them know how to use them, and most of them would be more apt to shoot members of their own family than anybody else."

A Dairy at the World's Fair.

Through the medium of a modern dairy three or four hundred cows will furnish milk for thirsty visitors. Enough fresh butter and cheese will also be manufactured daily to supply a good sized village. This is part and parcel of the programme of an elaborate dairy exhibit, under the auspices of the Columbian Dairy association, which embraces the various auxiliary associations of no less than twenty-two states. It is proposed to spend \$100,000 for the building, which is to have an auditorium capable of seating 1,000 people, and to show the masses what first class butter and cheese really are, and how they are made. If the plans are carried out there will also be an annex containing exhibits of all kinds of machinery that are allied to these two staple articles of food. It will take five acres of ground to accommodate the dairy building, and ex-Governor Hoard, of Wisconsin, will be the grand mogul of the department.

City People Have Poor Eyes.

That "we are all poor critters," as the Widow Bedott quoted her late husband's saying, is but too well proved by noting the percentage of thin, scrawny, pale and otherwise defective people in any crowd; but of late the doctors have presented appalling proofs that city bred people are unusually "poor critters." Their greatest defect is in the eyes. One-third of all the city children are more or less near sighted. The tall buildings limit their range of vision; the invisible dust, even more than the visible, injures the eye, and the wearied organ is not restored by gazing over the green fields and far away. The narrow grills of home or playground or school room shut the children in during their growing years, and the eye, habituated to so short a range, loses half its capacity. The truth of this is proved, and more's the pity.

THE AUTHORS' CLUB.

Men Who Belong to It—Recent Women Guests.

(Special Correspondence.)

NEW YORK, May 5.—The reception recently given by the members of the Authors' club to their friendly rivals, the authoresses, was not only unusual, but a most successful and delightful occasion. An impression generally prevails that as a class authors, and especially successful ones, are queer people, of unconventional habits, eccentric manners, having a good deal of self assurance and disposed to exact homage from all those with whom they come in contact. Yet at this gathering at the Authors' club the most famous of the authors and authoresses were the most unassuming of persons, and were full of fun and vivacity, so that the occasion seemed to be more an informal meeting of jolly workers for the press than of men and women whose names are known wherever the English language is read.



MRS. ELLA DIETZ CLYMER.

It would have been impossible to receive in the cozy parlors of the Authors' club the tenth part of all the women in this country who have made fame for themselves by their writings. Such women as Ella Wheeler Wilcox, Miss Story, Mrs. Barr and Anna Catharine Green were there and seemed greatly to enjoy the occasion. The women writers of New York have a sort of club of their own. Many of them are also members of Sorosis, and they delight to attend its meetings, and seem as much fascinated by the beauty and grace of Mrs. Ella Dietz Clymer as all men are who look upon her beauty.

Mrs. Clymer, as president of Sorosis, has gained a fame even greater than that which she won when she was Ella Dietz, the actress, and under her administration this most famous of women's clubs in this country has prospered greatly.

While the women writers celebrate their achievements and take courage from mutual counsel in a formal way, the authors at the Authors' club go to the other extreme, and are most delightfully informal. They smoke pipes, many of them imitating the habit of Tennyson and Carlyle, using long, old fashioned clay pipes. Such of them as are so disposed quaff with moderation good beer or tobies of ale, and they sit about the reception room chattering with utmost informality of one another's successes, discussing the latest novel, analyzing the qualities of which have won the yardstick of fame, or which preserve William D. Howells' fame. Here in the city George Parsons, Leithrop, may be found, looking far more solemn and serious than he feels, shaking his shaggy black hair as he gets excited in argument, and insisting, as he sometimes does, that the literary development of Americans, at least in the line of fiction, is just now in a state of transition.

Here, too, may be found the sedate and yet stily humorous countenance of Frank Stockton, who seems to be as popular with authors as he is with readers, and who, since fame has also brought him fortune, and therefore enabled him to get rid of more irksome pursuits, has mellowed greatly. He will become the center of a group, such men as Edgar Fawcett, Leithrop, sometimes Edmund Clarence Steadman, Edward Eggleston and his brother, George Cary Eggleston, standing around, whom he convulses with laughter, as he tells his dry humorous stories.

Now and then Mr. Howells himself or George W. Cable or Mark Twain is a visitor at the club, and they are specially honored, not with fulsome homage, but with that delicate courtesy which implies the greatest respect. If Mark Twain is in the humor, and he has not been bothered with litigations over his plays and copyrights, he usually comes brimful of new and quaint suggestions, which are more humorous, many of them, than many of his published sketches. Howells is always quiet when there is not saying many things, but saying much, but he never can be got to speak of his own works. He talks entertainingly of the criticisms which his theory of fiction has caused, and he is ready to defend that theory until the small hours of the morning. He does not defend it by any analysis or suggestions which might arise from his own works, but upon general principles.



WILLIAM DEAN HOWELLS.

One of the recent acquisitions of the Authors' club is Mr. Richard Harding Davis, who has had a phenomenal career. He came to New York less than two years ago as a reporter for The Evening Sun, and he had the singular good fortune, when on his way to the office to take his first assignment, to be approached by a bunco stealer. Davis understood the game at once, and decided to permit himself to be buncoed, and he was initiated into all the mysteries of that queer crime. At last, when he had the whole story, he collared the bunco king and held him until a policeman arrested him. Thus he was enabled to tell from personal experience and with literary charm the story of a buncoed man as his first story for The Evening Sun. Since then Davis has won an enviable reputation as a writer of short stories in the magazines. He inherits his literary gift, as he is a son of Rebecca Harding Davis, whose fame as a novelist is secure.

E. J. EDWARDS.

Fright of a Burden.

Putting on spectacles is red by middle aged people to seem old," or dislike themselves that they have the significant turning of the page of accepting the inevitable charming woman, who has a visual limit, declares that she is thereby daily increased.

"I'm always so lazy," she says. "I had to do a thousand things. Now when I go out for an afternoon I can leave my glasses at home, and when I am asked to look at a photograph, try a new crochet stitch, or read Mary Ann's last letter, I can read with a clear conscience. And it is such a rest of mind and saving of tissue."

Another woman, and a very pretty one, is a bit of tact deception in her dress.

"I don't put my glasses on with the air of having always worn them," she confesses. "I can't help hoping that people will think me new sighted from childhood."

But dear old gentleman, who can't see without glasses, actually goes to the point of declaring that he doesn't need them at all. He proves the case by standing at a distance from print and reading it without difficulty.

"There's nothing the matter with my eyes," he then explains humorously. "The only trouble is, my arms aren't long enough.—Youth's Companion."

An Owl Is the Farmer's Friend.

Of all birds, from the farmers' standpoint, owls are the most useful. They hunt silently and in the night, and are nothing short of lynx eyed cats with wings. The benefit they confer upon agriculturists is most incalculable, and is susceptible of proof. It is well known that owls hunt by night; but it may be less generally known that they return by the month hard indigestible parts of the food in the form of elongated pellets. These are found in considerable quantities about the birds' haunts, and an examination of them reveals the fact that owl prey upon a number of predaceous creatures, the destruction of which is directly beneficial to man.

Of course the evidence gained in this way is infallible, and to show to what extent owls assist in preserving the balance of nature it may be mentioned that 700 pellets examined yielded the remains of 6 bats, 13 rats, 237 mice, 693 voles, 1,59 shrews and 22 birds. These truly remarkable results were obtained from the common barn owl, and the remains of the 22 birds were those of 19 sparrows, 1 greenish and 2 swifts. The tawny and long-eared owls of our woodlands are also mighty hunters, and an examination of their pellets shows equally interesting evidence.—Cornhill Magazine.

Greek and Roman Stories.

Warm as Greece and Rome and Egypt, the stories were made there in the dim past, vistas of the past. It was not just the pattern used as a model, but a charcoal was burned. It set in the middle of the room, and as the resulting smoke was of the slightest no opening in the roof or elsewhere was necessary. The same implement, still called by its old Greek name of brazier, is still employed in many portions of continental Europe, where it is utilized for heating as well as cooking.

But the progressive Romans improved on that and made a hypocrite. It was the germ of the present furnace. It was made under the house in a little cellar prepared for it, and the heat was conducted to the rooms and baths through crevices left in the floor and lower portions of the wall. Later flues were provided, conducting heat to any portion of the house. In some of the old Roman villas in England the remains of these old time furnaces are still found.—Chicago Herald.

A Remarkable Phenomenon. On Thursday, March 19, 1719, there appeared at London, about 8 o'clock at night, a "sudden great light moving after the manner but more slowly than a falling star. It started from a point below Orion's belt, then lying in the southwest, and went upward instead of downward like a falling star. Its size, according to the testimony of numerous observers in Spain, France, Ireland, Holland and some parts of Germany, as well as those who saw it in London and all over England, was about that of the full moon. It was of whitish color, with an eye in the center as blue as the most azure portion of a June sky after a thunder storm. It went straight upward in its course until out of sight, leaving a track of fiery red sparks in its wake."—St. Louis Republic.

Reason for Gratitude. "I once read a grateful defence of Captain Kidd, the pirate." "But you don't know the circumstances under which it was written?" "No." "He boarded a vessel where everybody was seasick. He gave the usual order, 'Your money or your life.' Everybody felt so thankful at the prospect of being put out of their misery that they one and all refused the money. He accordingly hung them, and the captain, who was spared, was so thankful to be spared their complaints that when he got on shore he wrote the article."—St. Paul Globe.

Their Point of Difference. Kate—Such an owl as you are! Why can't you be talkative, like Tom Rattelon? Such a difference as there is between them!

Fred—There's only this difference, my dear girl: I think and say nothing; Tom talks and says nothing.—Pittsburg Bulletin.

Dr. Johnson and Sydney Smith were both inveterate tea drinkers. The former said that "he never gave his teakettle time to cool," while the latter gave a sure recipe against the prevailing epidemic of his time, melancholy, "a teakettle simmering upon the hob."

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